

Department of State

§ 123.20

crew-member of a vessel or aircraft unless the crew-member declares the firearms to a Customs officer upon each departure from the United States, and declares that it is his or her intention to return the article(s) on each return to the United States. It is also not applicable to the personnel referred to in § 123.18.

(d) District Directors of Customs shall permit a foreign person to export without a license such firearms in Category I(a) of § 121.1 of this subchapter and ammunition therefor as the foreign person brought into the United States under the provisions of 27 CFR 178.115(d). (The latter provision specifically excludes from the definition of importation the bringing into the United States of firearms and ammunition by certain foreign persons for specified purposes).

(e) District Directors of Customs shall permit U.S. persons to export without a license ammunition for non-automatic firearms referred to in paragraph (a) of this section if the quantity does not exceed 1,000 cartridges (or rounds) in any shipment. The ammunition must also be for personal use and not for resale or other transfer of ownership. The foregoing exemption is also not applicable to the personnel referred to in § 123.18.

[58 FR 39299, July 22, 1993, as amended at 64 FR 17534, Apr. 12, 1999]

§ 123.18 Firearms for personal use of members of the U.S. Armed Forces and civilian employees of the U.S. Government.

The following exemptions apply to members of the U.S. Armed Forces and civilian employees of the U.S. Government who are U.S. persons (both referred to herein as personnel). The exemptions apply only to such personnel if they are assigned abroad for extended duty. These exemptions do not apply to dependents.

(a) *Firearms.* District Directors of Customs shall permit nonautomatic firearms in Category I(a) of § 121.1 of this subchapter and parts therefor to be exported, except by mail, from the United States without a license if:

(1) They are consigned to servicemen's clubs abroad for uniformed members of the U.S. Armed Forces; or,

(2) In the case of a uniformed member of the U.S. Armed Forces or a civilian employee of the Department of Defense, they are for personal use and not for resale or other transfer of ownership, and if the firearms are accompanied by a written authorization from the commanding officer concerned; or

(3) In the case of other U.S. Government employees, they are for personal use and not for resale or other transfer of ownership, and the Chief of the U.S. Diplomatic Mission or his designee in the country of destination has approved in writing to Department of State the import of the specific types and quantities of firearms into that country. The exporter shall provide a copy of this written statement to the District Director of Customs.

(b) *Ammunition.* District Directors of Customs shall permit not more than 1,000 cartridges (or rounds) of ammunition for the firearms referred to in paragraph (a) of this section to be exported (but not mailed) from the United States without a license when the firearms are on the person of the owner or with his baggage or effects, whether accompanied or unaccompanied (but not mailed).

§ 123.19 Canadian and Mexican border shipments.

A shipment originating in Canada or Mexico which incidentally transits the United States en route to a delivery point in the same country that originated the shipment is exempt from the requirement for an in transit license.

§ 123.20 Nuclear materials.

(a) The provisions of this subchapter do not apply to equipment in Category VI(e) and Category XVI of § 121.1 of this subchapter to the extent such equipment is under the export control of the Department of Energy or the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978.

(b) A license for the export of any machinery, device, component, equipment, or technical data relating to equipment referred to in Category VI(e) will not be granted unless the proposed export comes within the scope

of an existing Agreement for Cooperation for Mutual Defense Purposes concluded pursuant to the Atomic Energy Act of 1954, as amended, with the government of the country to which the article is to be exported. Licenses may be granted in the absence of such an agreement only (1) if the proposed export involves an article which is identical to that in use in an unclassified civilian nuclear power plant, (2) if the proposed export has no relationship to naval nuclear propulsion, and (3) if it is not for use in a naval propulsion plant.

§ 123.21 Duration, renewal and disposition of licenses.

(a) A license is valid for four years. The license expires when the total value or quantity authorized has been shipped or when the date of expiration has been reached, whichever occurs first. Defense articles to be shipped thereafter require a new application and license. The new application should refer to the expired license. It should not include references to any defense articles other than those of the unshipped balance of the expired license.

(b) Unused, expired, expended, suspended, or revoked licenses must be returned immediately to the Department of State.

§ 123.22 Filing of export licenses and Shipper's Export Declarations with District Directors of Customs.

(a) The exporter must deposit the license with the District Director of Customs at the port of exit before shipment, unless paragraph (d) of this section or § 125.9 applies (for exports by mail, see § 123.24). Licenses for temporary export or temporary import are to be retained by the exporter and presented to the District Director of Customs at the time of import or export for endorsement. If necessary, the export may be made through a port other than the one designated on the license if the exporter complies with the procedures established by the U.S. Customs Service. Every license will be returned to the Office of Defense Trade Controls by the District Director of Customs when the total value or quantity authorized has been shipped or

when the date of expiration is reached, whichever occurs first.

(b) Before shipping any defense article, the exporter must also file a Shipper's Export Declaration with the District Director of Customs at the port of exit (unless otherwise exempt from filing a Shipper's Export Declaration). The District Director of Customs at the port of exit must authenticate the Shipper's Export Declaration, and endorse the license to show the shipments actually made. The District Director of Customs will return a copy of each authenticated Shipper's Export Declaration to the Office of Defense Trade Controls.

(c) Except for the export of unclassified technical data, an exporter must file a Shipper's Export Declaration with District Directors of Customs or Postmasters in those cases in which no export license is required because of an exemption under this subchapter. The exporter must certify that the export is exempt from the licensing requirements of this subchapter by writing 22 CFR (identify section) and 22 CFR 120.1(b) applicable on the Shipper's Export Declaration, and by identifying the section under which an exemption is claimed. A copy of each such declaration must be mailed immediately by the exporter to the Office of Defense Trade Controls.

(d) A Shipper's Export Declaration is not required for exports of unclassified technical data. Exporters shall notify the Office of Defense Trade Controls of the initial export of the data by either returning the license after self endorsement or by sending a letter to the Office of Defense Trade Controls. The letter shall provide the method, date, license number and airway bill number (if applicable) of the shipment. The letter must be signed by an empowered official of the company and provided to the Office of Defense Trade Controls within thirty days of the initial export.

(e) If a license for the export of unclassified defense articles, including technical data, is used but not endorsed by U.S. Customs or a Postmaster for whatever reason (e.g., electronic transmission, unavailability of Customs officer or Postmaster, etc.), the person exporting the article must self-endorse the license, showing when